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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,613	12/16/2003	Shigeo Fukuda	FUKU3001/EM	2775
23364 7590 09/11/2007 BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			EXAMINER BERNATZ, KEVIN M	
			ART UNIT 1773	PAPER NUMBER
			MAIL DATE 09/11/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/735,613

Applicant(s)

FUKUDA, SHIGEO

Examiner

Kevin M. Bernatz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Amendment

1. Amendments to claims 14 and 15, filed on July 2, 2007, have been entered in the above-identified application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

3. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sakurai et al. (JP 11-103915 A) in view of Takeshita et al. (U.S. Patent No. 4,981,532) and Okinaka et al. (U.S. Patent No. 4,067,783) and as evidenced by Applicants' admissions. See provided full English translation of JP '915 A.

Sakurai et al., Takeshita et al. and Okinaka et al. are relied upon as described in Paragraph No. 4 of the Office Action mailed March 2, 2007, which refers back to Paragraph No. 6 of the Office Action mailed on May 2, 2006.

Regarding the amended language, the Examiner notes that Applicants admit that the use of magnetic bodies in the form of bracelets, etc. is known in the art (*specification, pages 1 – 4*), a use which is also recognized by Sakurai et al. (see *Paragraph 0002 of the English translation*). Applicants further admit that when a bracelet is formed such that the “magnetic attracting force for keeping the ring shape is strong, so that in the case of wearing the permanent magnet ring 1 on the wrist or the

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like, there is no fear that the permanent magnet 1 falls away even by shaking the arm or the like" (*specification, page 32*), that "the magnetic flux forms a closed magnetic path K. Accordingly, the magnetic force lines are not applied directly to the wrist 2 of the like. The leakage flux L is applied to the wrist 2" (*specification, page 33*). I.e. by forming the magnetic bodies such that they are connected as claimed, the magnetic flux necessarily is not applied directly to the wrist and that the leakage flux is applied to the wrist.

The Examiner notes that Sakurai et al. teach the claimed means of connecting the magnetic bodies along a line or point contact, as well as explicitly teaching that "the beads will not come apart easily because of the actions of the ferromagnetic magnets even when the hand is swung around. This is because of the strong adsorbing forces that act between the beads in the direction of adsorption, in other words, the direction of the magnetic lines" (*Paragraph 0006 of English translation*). As such, the Examiner deems there is sufficiently sound basis that the bracelet connection means disclosed by Sakurai et al. will necessarily possess the claimed magnetic force line and leakage flux limitations given the substantially similarity between the claimed and disclosed invention.

Finally, the Examiner notes that since the prior art clearly recognizes the use of magnetic bracelets, etc for the purpose of health. As such, the formation of the bracelet to emphasize that purpose instead of the ease of changing the bracelet components as emphasized by Sakurai et al. would have been obvious to one of ordinary skill in the art since the combination would have utilized known methods and yielded predictable results.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sakurai et al. in view of Takeshita et al. and Okinaka et al. and as evidenced by Applicants' admissions as applied above, and further in view of the combined teachings of Hart (U.S. Patent No. 5,195,335), Yellen (U.S. Patent No. 6,427,486 B1), Lu (U.S. Patent App. No. 2004/0111005 A1) and Jacobson (U.S. Patent No. 6,634,067 B2).

All of the above are relied upon as described above in Paragraph 3 and as described in Paragraph No. 5 of the Office Action mailed March 2, 2007.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sakurai et al. in view of Takeshita et al. and Okinaka et al. and as evidenced by Applicants' admissions as applied above, and further in view of Hoffman (U.S. Patent No. 4,517,217).

All of the above are relied upon as described above in Paragraph 3 and as described in Paragraph No. 6 of the Office Action mailed March 2, 2007.

Response to Arguments

6. The rejection of claims 14 - 16 under 35 U.S.C § 103(a) – Sakurai et al. in view of various references

Applicant(s) arguments have been considered but are moot in view of the new ground(s) of rejection. In so far as they apply to the present rejection of record, applicant(s) argue it is improper to modify Sakurai et al. as put forth by the Examiner

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since Sakurai et al. teaches away from the proposed modification (*pages 6 – 10 of response*). The Examiner respectfully disagrees.

The Examiner acknowledges that Sakurai et al. is concerned with attracting other magnetic materials to the beads making up the bracelet (*Paragraph 0006 of English language translation*), but the Examiner contends that one of ordinary skill in the art would readily appreciate that it is merely a matter of design choice depending on the desired end use of the bracelet. Sakurai et al. is mostly focused on a bracelet for aesthetic appeal, not for health reasons, though Sakurai et al. acknowledges that the use of magnetic bodies for health is known in the art (*Paragraph 0002*).

Specifically, the prior art recognizes all the elements of the claimed magnetic ring (*i.e. bracelet*), including the use of bracelets formed from all magnetic bodies (*e.g. see Yellen, Lu, Delaney, Hayakawa and GB '884 A*), as well as the fact that these elements could have been combined by known methods wherein the elements would function substantially the same as they did separately (*e.g. the magnetic bodies would still possess the same magnetic behavior as outlined in Sakurai et al.*). Furthermore, the combination would be reasonably expected to yield predictable results (*i.e. not only a magnetic attraction to the bodies themselves, but additional magnetic leakage flux available for health benefits – as exemplified by both Sakurai et al. and Applicants' own admissions*). Therefore, the Examiner maintains that the claimed limitations are merely an obvious variation of the disclosed magnetic ring in Sakurai et al. and is within the knowledge of one of ordinary skill in the art.

Applicants further argue that the amended language distinguishes over Sakurai et al. since Sakurai et al. desires to eliminate any stray magnetic force lines. The Examiner respectfully disagrees.

First, the Examiner notes that the present claims and Applicants' specification is clear that the claimed "leakage magnetic flux" is uniquely different than stray magnetic force lines. Second, Applicant(s) are reminded that "the test for obviousness is not whether features of the secondary reference may be bodily incorporated into the primary reference's structure, nor whether the claimed invention is expressly suggested in any one or all of the references, rather the test is what the combined teachings would have suggested to those of ordinary skill in the art." *Ex parte Martin* 215 USPQ 543, 544 (PO BdPatApp 1981). In the instant case, as noted above, the use of magnetic bracelets for the purposes of health would motivate one of ordinary skill in the art to form magnetic bodies possessing sufficient leakage magnetic flux to perform health related activity, as well as the benefits taught by Sakurai et al. with regard to the aesthetics and ease of changing the appearance of the bracelet.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Applicants' amendment resulted in embodiments not previously considered (i.e. the added language of claims 14 and 15) which necessitated the new grounds of rejection (i.e. the inclusion of the evidentiary teaching), and hence the finality of this action.

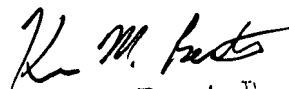
8. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kevin M. Bernatz whose telephone number is (571) 272-1505. The Examiner can normally be reached on M-F, 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KMB
September 7, 2007


Kevin M. Bernatz, P.
Primary Examiner